

REMARKS

Claims 1-29 were originally presented in the subject application. Claims 22, 27 and 29 were amended in a response dated November 17, 2007. Claims 13-29 were canceled without prejudice in a response dated April 7, 2008.

Claims 1, 5 and 6 have hereinabove been amended to more particularly point out and distinctly claim the subject invention. No claims have herein been added. Claim 4 has herein been canceled without prejudice. Therefore, claims 1-3 and 5-12 remain in this case.

The addition of new matter has been scrupulously avoided. In that regard, the amendment to claim 1 merely adds the substance of prior claim 4. The other amendments flow from the cancellation of claim 4.

Applicant respectfully requests entry of this amendment, and reconsideration and withdrawal of the sole remaining ground of rejection.

35 U.S.C. §103 Rejection

The final Office Action rejected claims 1-6, 8, 10, 11, 13-18, 20-27 and 29 under 35 U.S.C. §103, as allegedly obvious over Afergan et al. (U.S. Patent Application Publication No. 2004/0010601) in view of Yoshida (U.S. Patent Application Publication No. 2004/0049546). Applicant respectfully, but most strenuously, traverses this rejection.

*Prior Art Rejections*

Amended claim 1 includes the substance of prior claim 4. More specifically, claim 1 now includes the recitation that the automatic checking comprises sending a request from a program of the communications unit to a program of the restricted communications network inquiring as to whether there is mail to be sent, the program of the restricted communications network checking a data structure to determine whether there is mail in the data structure to be sent.

Afergan teaches routing user requests for content to a shield (group of content delivery servers), then from the shield through a firewall to the server able to access the content. See, e.g., the Summary of Afergan. The purpose is to protect the content server.

The final Office Action indicates that Afergan does not expressly disclose checking to see if mail should be delivered, either externally or internally. See the final Office Action in the first sentence of numbered item 11 on page 7. Applicant agrees. Instead, the final Office Action cites to Yoshida.

Yoshida teaches a mail system where a central mail server receives mail for multiple client domains. A client-side mail server at each domain checks for mail intended for its clients at the central mail server. The central server authenticates the client server, then sends the mail, which the client-side mail server then distributes to individual users.

The final Office Action does not specifically address the substance of prior claim 4. However, a careful review of the cited art reveals that while Yoshida does mention a data structure in numbered paragraph 0026, this is with respect to authentication of the client-side server by the central server prior to email transfer from the central server to the client-side server. There is no disclosure, teaching or suggestion in Afergan or Yoshida, or their combination, regarding storing mail in a data structure, or checking a data structure to determine whether there is mail (or any other content) in the data structure to be sent out of the restricted communications network.

Therefore, for at least the reasons noted above, Applicant submits that claim 1 cannot be obviated over Afergan in view of Yoshida.

#### *Non-Analogous Art*

With regard to the non-analogous art issue, Applicant submits that the Advisory Action correctly sets out the steps of the non-analogous art test (see item 2 on page 2 of the Advisory Action), but then fails to address the specific steps of the test. For example, it is not clear what Applicant's alleged field of endeavor is, nor whether each of the cited references is alleged to be

within that field of endeavor (presumably so). In the absence of anything to the contrary, Applicant assumes the Examiner agrees with the field set out in Applicant's prior response.

Similarly, the Advisory Action does not set out the alleged problem with which the Applicant was concerned, nor explain how each of the cited references is (individually as required) reasonably pertinent to that problem. Again Applicant assumes that the Examiner agrees with the problem set out in the patent application. In the absence of understanding how the Examiner is applying the specific test in this case, Applicant maintains its position.

Thus, Applicant maintains that each of Afergan, Yoshida, Banister, Mizuno and Clarke is improperly cited against the present application as non-analogous art. The test was set out in Applicant's prior response. In the present case, the field of endeavor is set out in numbered paragraph 0001 as being generally related to electronic mail delivery, and in particular, to facilitating the sending of email from a restricted communications network. The field of endeavor is also echoed in the preamble of claim 1, for example.

Applicant submits that Afergan is not within the field of Applicant's endeavor, as it is not related to sending mail from a restricted communications network. In Afergan, the requests originate from users and flow to the content server. There is no indication in Afergan that the user requests come from a restricted network. Thus, Afergan is not within the field of Applicant's endeavor.

Since Afergan fails the first part of the test, we move on to the second step of the non-analogous art test; that is, it must be determined whether the reference is reasonably pertinent to the particular problem the inventor sought to solve. As set forth in the Background section of the present application, the problem is that of restricted communications networks, in which standard mechanisms for sending email are disabled, requiring manual intervention to send email out of the restricted network. Applicant submits that Afergan is not reasonably pertinent to the noted problem, since it is concerned with shielding the content server (at the other end) from unwanted inbound access, and not with getting email out of a restricted network. There is no disclosure in Afergan, for example, regarding the user requests coming out of a restricted network, standard sending protocols being disabled, or manual intervention to get user requests (much less email)

out as a result. As a consequence, Applicant submits that Afergan is not reasonably pertinent to the problem the inventor sought to solve.

Therefore, Applicant submits that Afergan is improperly cited against the present application as non-analogous art.

Likewise, Applicant submits that Yoshida is not within the field of Applicant's endeavor, as it is not concerned with sending email out of a restricted network. Instead, it is concerned with the receiving end of email, getting it to the recipients.

Moving onto the second step, Applicant submits Yoshida is not reasonably pertinent to the problem of restricted communications networks, in which standard mechanisms for sending email are disabled, requiring manual intervention to send email out of the restricted network. As noted above, Yoshida is concerned with receiving email, not sending it or sending it out of a restricted network.

Therefore, Applicant submits Yoshida is improperly cited as non-analogous art.

Banister, like Yoshida, is concerned with the receiving end – trying to reduce emails being bounced by a recipient's email server. Banister is not concerned with sending email out of a restricted network, and, thus, is not within Applicant's field of endeavor.

Moving on to the second step of the non-analogous art test for Banister, whether it is reasonably pertinent to the problem of restricted communications networks, in which standard mechanisms for sending email are disabled, requiring manual intervention to send email out of the restricted network, numbered paragraph 0012 of Banister describes a conventional network setup in which email flows freely out of the network, but bringing files into the network is difficult. Banister is concerned with the duplication of files from outside the network to inside so that users can access the same. Thus, Applicant submits Banister is not reasonably pertinent to the problem.

Therefore, Applicant submits Banister is improperly cited as non-analogous art.

Finally, Clarke is concerned with sending alerts to mobile devices regarding mail received. Mail flows freely, and, thus, Clarke is not concerned with sending email out of a restricted network. As such, Clarke is not within the field of Applicant's endeavor.

Clarke is also not reasonably pertinent to the problem of restricted communications networks, in which standard mechanisms for sending email are disabled, requiring manual intervention to send email out of the restricted network. No such problem exists in Clarke, which focuses on mobile alerts for email received. Thus, Clarke is not reasonably pertinent to the problem sought to be solved by Applicant.

Therefore, Applicant submits Clarke is improperly cited as non-analogous art.

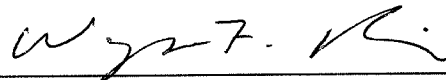
#### CONCLUSION

Applicant submits that the dependent claims not specifically addressed herein are allowable for the same reasons as the independent claims from which they directly or ultimately depend, as well as for their additional limitations.

For all the above reasons, Applicant maintains that the claims of the subject application define patentable subject matter and earnestly request allowance of claims 1-12.

If a telephone conference would be of assistance in advancing prosecution of the subject application, Applicant's undersigned attorney invites the Examiner to telephone him at the number provided.

Respectfully submitted,



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